POWER OF MUNICIPAL CORPORATIONS TO REGULATE HOURS OF EMPLOYMENT.—In *State* v. *Ray* (1902) 42 S. E. 960, the Supreme Court of North Carolina declared unreasonable and void an ordinance which required barrooms, grocery and dry goods stores to close during the summer months at 7.30 P. M., except on Saturdays. The defendant in the case was the owner of a dry goods store. As the legislature had not conferred upon the municipality by its charter or by statute any special authority to pass the ordinance, the question before the court was whether an authority to regulate the closing of stores could be implied among the general incidental powers of the corporation.

Statutes limiting the hours of employment of various industries have been held constitutional in a number of jurisdictions, although, as they have differed considerably in their provisions, some have been declared void. But in considering the lawfulness of a municipal ordinance of the same nature, another factor enters besides that of constitutionality. Even though it should be granted in any particular case that the legislature might have enacted the ordinance as a general statute applicable to the whole State, the question remains whether the legislature intended to delegate its power in the matter to the municipal corporation to be exercised within its corporate limits. It is a well established principle of law that municipal corporations "can exercise no powers but those which are conferred upon them by the act by which they are constituted, or such as are necessary to the exercise of their corporate powers, the performance of their corporate duties, and the accomplishment of the purposes of their association." SHAW, C. J., *Spalding* v. *City of Lowell* (1839) 23 Pick. 71. In every case the extent of these powers, whether expressly granted, implied, or indispensable to the purposes of the corporation, is a question of construction. If there is a reasonable doubt, caused by the terms used by the legislature in its grant of power, as to the presence or absence of a particular power, the ordinance is to be strictly construed, and the doubt is to be resolved in favor of the public and against the corporation. This rule of construction is especially necessary when the ordinance abridges a common or natural right. Dillon, Mun. Corp. 4th Ed. §§ 89, 91, 325.

The conclusion reached by the court after an application of this fundamental rule of the law of municipal corporations to the facts as presented in *State* v. *Ray* was undoubtedly correct. If an incorporated municipality should be permitted, without special authority, but as one of its general incidental powers, to regulate, within its corporate limits, the hours of employment of legitimate industries, it is difficult to see where the line would be drawn between the powers reserved by the legislature and the implied powers of the municipality. These powers are not coextensive. In *Leonard* v. *City of Canton* (1858) 35 Miss. 190, the court said: "The power of the corporation is merely something added as to the particular locality to the general powers of government; or, in other words, it is special jurisdiction, created for specific purposes, and like all such jurisdictions, it must be confined to the subjects specially enumerated."

Under the clause contained in most charters giving the corporation power to make regulations "for the better government of the

city," ordinances closing stores on Sunday, or saloons at certain hours at night, have been generally upheld when they did not conflict with State laws on the subject. *St. Louis* v. *Cafferata* (1856) 24 Mo. 94; *Morris* v. *City Council of Rome* (1851) 10 Ga. 532. But to permit the municipal authorities to determine the hour of closing shops on week days would be a wide extension of the police powers of the corporation which the courts have not as yet considered reasonable or necessary. The only case which seems in any degree to support the validity of the ordinance in question is *State* v. *Freeman* (1859) 38 N. H. 426, where an ordinance prohibiting restaurants from being kept open after 10 P. M. was held a reasonable regulation authorized by the general welfare clause of the charter. In *Barbier* v. *Connolly* (1884) 113 U. S. 27, and *Soon Hing* v. *Crowley, Ib.* 703, the Supreme Court upheld an ordinance prohibiting washing and ironing in public laundries from ten o'clock at night until six in the morning. The reasonableness of the ordinance appeared in the fact that it was necessary as a fire regulation for the protection of the city; local conditions justified the measure. But in *State* v. *Ray* no conditions peculiar to the town, as distinguished from the rest of the State, made it necessary, for the sake of the public health or welfare, to interfere with the free enjoyment of private property by passing an ordinance closing all stores at 7.30 in the evening. In determining the reasonableness of an ordinance "the court will have to regard all the circumstances of the particular city or corporation, the objects sought to be attained, and the necessity which exists for the ordinance." Dillon, Mun. Corp. 4th ed. § 327.

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CORPORATIONS—LEGAL CONTROL WITHIN THE MEANING OF A STATUTE.—In view of the present-day statutes prohibiting mergers of competing quasi-public corporations an instructive decision is *Chicago Union Traction Co.* v. *City of Chicago* (Ill. 1902) 65 N. E. 470. A municipal ordinance required the giving of transfers where one street railway "controlled, owned, leased or operated" another. An action for the penalty imposed being brought against the Union company for failure to issue transfers over the Consolidated lines, it appeared that the stock of the latter was held in trust for the stockholders of the former, whose president was empowered to designate the proxies who should vote thereon. The corporate existence of the Consolidated company was not surrendered, but the Union company, through its president, had complete domination of its directorate. The two companies were operated practically as one. Under these circumstances the defendant was adjudged to have control of the Consolidated company within the meaning of the ordinance. Among the authorities cited by the defence that of *Pullman Co.* v. *Missouri Pacific Ry. Co.* (1885) 115 U. S. 587 most troubled the court. There the railway had contracted to run only Pullman cars on all roads it should "control by ownership, lease, or otherwise." It had purchased practically all the stock of the Iron Mountain Ry., whose line it operated as part of its own system through its elective power over the directorate. This, however, was held not to be legal control, and hence the contract was not applicable to the Iron Mountain road.